

1 Perrie M. Weiner (Bar No. 134146)
perrie.weiner@dlapiper.com
2 Robert D. Weber (Bar No. 165992)
robert.weber@dlapiper.com
3 DLA PIPER LLP (US)
2000 Avenue of the Stars, 4th Floor North Tower
4 Los Angeles, CA 90067
Tel: 310.595.3000 / Fax: 310.595.3300

6 John P. Coffey (*Pro Hac Vice* Pending)
7 SCoffey@kramerlevin.com
8 Jonathan M. Wagner (*Pro Hac Vice* Pending)
JWagner@kramerlevin.com
9 Samantha V. Ettari (*Pro Hac Vice* Pending)
SEttari@kramerlevin.com
10 Kramer Levin Naftalis & Frankel LLP
11 1177 Avenue of the Americas
12 New York, NY 10036
Telephone: 212.715.9100

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

17 SCOTT MATTHEWS, individually and
18 on behalf of all others similarly situated,

19 Plaintiff,

20

22 | THIRD AVENUE MANAGEMENT
LLC; *et al.*

24

Defendants.

Case No. 2:16-cv-00770-MWF

**DEFENDANTS' NOTICE OF
UNOPPOSED MOTION AND
MOTION TO TRANSFER VENUE
TO THE SOUTHERN DISTRICT OF
NEW YORK**

Judge: Hon. Michael W. Fitzgerald
Courtroom: Spring Street 1600 – 16th Fl.

Action Filed: February 3, 2016

Hearing Date: April 11, 2016
Hearing Time: 10:00 a.m.

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on Monday, April 11, 2016 at 10:00 a.m., in
3 Courtroom 1600, located at 312 N. Spring Street, Los Angeles, California, 90012,
4 Defendants Third Avenue Management LLC, Third Avenue Trust, M.J. Whitman LLC,
5 Vincent J. Dugan, W. James Hall III and Michael Buono (collectively, the
6 “Defendants”) will and hereby do move the Court pursuant to 28 U.S.C. § 1404(a) for
7 an order transferring this action to the Southern District of New York (the “SDNY”).

8 **This motion is unopposed.**

9 This action is one of four related putative nationwide class actions arising under
10 the Securities Act of 1933. Those other cases are *Tran v. Third Avenue Management*
11 *LLC*, 16-cv-00602 (the “Tran Action”); *Inter-Marketing Group USA, Inc. v. Third*
12 *Avenue Trust, et al.*, 16-cv-00736; (the “IMG Action”); and *Bhat v. Third Avenue*
13 *Management LLC et al.*, 16-cv-00904 (the “Bhat Action”), each of which is pending
14 before the Hon. Michael W. Fitzgerald as a related case. The complaints allege
15 misrepresentations or omissions arising from the same prospectuses and public filings;
16 names the same defendants; and in many respects are nearly identical. Defendants have
17 already moved to transfer the Tran Action to the SDNY under 28 U.S.C. 1404(a).
18 Transfer to the SDNY would best serve the interests of justice and party and non-party
19 convenience, because among other reasons there is a first-filed action already pending
20 in the SDNY and the SDNY is the most convenient forum for the parties and witnesses,
21 most of whom are located in or near that district. The motion to transfer venue in the
22 Tran Action is based in part upon a Memorandum of Points and Authorities and the
23 Declarations of John P. Coffey (“Coffey Decl.”) and W. James Hall III filed in that
24 Action.

25 As noted in the Coffey Declaration, counsel for plaintiff in this Action stated by
26 email, on February 25, 2016, that he “does not object to a transfer to S.D.N.Y.” *See*
27 Coffey Decl. ¶ 10(a), Ex. 8. Counsel for plaintiff in the Bhat Action has also stated that

1 she will not oppose a motion to transfer to the SDNY. *See id.* ¶ 10(b). Defendants are
2 thus also filing an unopposed motion to transfer the Bhat Action.¹

3 Defendants' Motion to Transfer Venue in this Action is based upon (i) this
4 Notice of Motion, (ii) the facts and arguments included in the Memorandum of Points
5 and Authorities and Declarations of John P. Coffey and W. James Hall III, filed in the
6 Tran Action, (iii) all pleadings and papers on file with the Court in this action, (iv) all
7 judicially noticeable facts, and (v) upon such oral and written evidence as may be
8 presented at the hearing of this Motion.

9 This Motion is made following the conference of counsel pursuant to L.R. 7-3,
10 which took place on February 25, 2016.

11 Accordingly, for the reasons above and more fully set forth in the related
12 memorandum, Defendants request that the Court transfer this action to the Southern
13 District of New York.

14
15 DATED: March 10, 2016

Respectfully submitted,

16
17 By: /S/ Robert D. Weber

18 Robert D. Weber
Perrie M. Weiner
DLA PIPER LLP (US)

19
20 John P. Coffey (*Pro Hac Vice Pending*)
Jonathan M. Wagner (*Pro Hac Vice Pending*)
Samantha V. Ettari (*Pro Hac Vice Pending*)
Kramer Levin Naftalis & Frankel LLP

21
22 *Attorneys for Defendants Third Avenue*
Management LLC, Third Avenue Trust, M.J.
Whitman LLC, Vincent J. Dugan, W. James
Hall III and Michael Buono

23
24
25
26 ¹ Counsel for plaintiff in the IMG Action has informed Defendants' counsel that it intends to oppose a
27 motion to transfer the IMG Action to the SDNY, but will review the transfer motion filed in the Tran
28 Action and thereafter advise whether they will adhere to that position. Coffey Decl. ¶ 10. Upon hearing
from counsel, Defendants intend to move promptly to transfer the IMG Action to the SDNY, either as an
opposed or unopposed motion.